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Eldar Sarajli

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University of Edinburgh, School of Law
The Europeanisation of Citizenship in the Successor States of the Former Yugoslavia
(CITSEE)

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A Citizenship Beyond the Nation-State: Dilemmas of the 'Europeanisation' of Bosnia and Herzegovina

Eldar Sarajlić¹

Abstract

The paper deals with the tension between the predominant ideas of citizenship in Bosnia and Herzegovina and those imposed upon the country by the EU integration dynamic. It tries to argue that the tension between citizenship as a concept moulded within the historical and conceptual parameters of the European nation-state and the complex sociopolitical reality of Bosnia and Herzegovina that clearly diverges from the nation-state model creates frictions and erodes the democratization process. The paper offers an analysis of citizenship legislation in Bosnia and Herzegovina and a variety of historical, political and social determinants that have shaped the existing citizenship regime in the country. By doing this, it aims to examine the character of citizenship in contemporary Bosnia and Herzegovina, to question the social and political underpinnings of its historical development, to assess the possibility for the establishment of a liberal democratic citizenship framework and to chart a way for explaining new developments, driven by European integration processes.

Keywords:

citizenship, Bosnia and Herzegovina, nation-state, ethnicity, Europeanisation

1. Introduction

Discussing citizenship in contemporary Bosnia and Herzegovina is both challenging and rewarding. Since the country's longstanding history and social development hardly fit the European mould of nation-state evolution, generating straightforward conclusions on Euro-centric phenomena such as citizenship might appear relatively challenging. Namely, Bosnia and Herzegovina has never been a nation-state, nor developed crucial nation-state properties, so a unified citizenship model coupled with a corresponding national identity of Bosnian citizens never occurred. Hence, placing the phenomenon of citizenship within Bosnian historical and political parameters and expecting to find straightforward elements comparable to other European cases might simply be misleading. By many social and political means, Bosnia and Herzegovina is an exception in the modern European context: a former province of two Empires, shaped both by the East and the West, modernized through external influence, culturally complex and not-determined by a single national

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identity. The current status quo the country is known for only reflects its changing historical character that appears to be always in a process of transformation.

However challenging, assessing the state of citizenship in Bosnia and Herzegovina can be particularly revealing. It can tell us a great deal about the country's historical experience and the nature of its political institutions. Just as studying citizenship in France in Germany enabled Rogers Brubaker to reach conclusions which articulated the French and German citizenship models as ideal types, examining Bosnian citizenship can educate us about this country's social and political character, as well as about its historical setup (see Brubaker 1992b on France and Germany). Additionally, it can provide us with knowledge about the difficulties of reconciling political models developed in particular historical frameworks with new contexts, shaped and ridden by different cultural and political experiences. In that sense, it can inform us about the ways citizenship is perceived and represented in the West, but also about potential trajectories which the evolution of citizenship in the regional context may follow.

The case of Bosnia and Herzegovina is also indicative of the necessity to understand and to analyze citizenship in its broadest sense, including both its legislative and political dimensions, as well as broader contexts and constellations in which it has been formed (Stewart 1995: 63; on constellations see Bauböck, 2010). Only by maintaining a focus on a multiplicity of citizenship dimensions one can gain a fuller grasp of the phenomenon and understand its contextual embodiments. As this case will amply show, a democratic, liberal and inclusive citizenship regime depends not only on an appropriate legislative framework but also on many other social and political practices that circumscribe the ways citizenship is understood and played out in the public domain. The notion that a wider analysis is of importance for understanding citizenship will provide the framework for the approach taken in this paper. It aims to deal with both procedural or legal (nominal) and substantial (democratic) dimensions of citizenship, but also with the historical, social and political context of its formation. This entails an analysis of citizenship legislation in Bosnia ad Herzegovina and a variety of historical, political and social determinants that have shaped the existing citizenship regime in the country. By doing this, the paper will aim to examine the character of citizenship in contemporary Bosnia and Herzegovina, to question the social and political underpinnings of its historical development, to assess the possibility for the establishment of a liberal democratic citizenship framework and to chart a way for explaining new developments, driven by European integration processes.

The thesis which this paper puts forward suggests that there is a tension between the predominant ideas of citizenship in Bosnia and Herzegovina and those imposed upon the country by the EU integration dynamic. The tension between citizenship as a concept moulded within the historical and conceptual parameters of

the European nation-state and the complex sociopolitical reality of Bosnia and Herzegovina that clearly diverges from the nation-state model creates frictions and erodes the democratization process. Thus, the main question this paper implicitly tries to answer is not how to shape the Bosnian sociopolitical reality to correspond with the citizenship models predominant in continental Europe, but what kind of democratic citizenship is possible in today's Bosnia and Herzegovina and how to achieve it. The question is how to create a balanced citizenship that would satisfy the main tenets of liberal democracy and enable a higher degree of respect for human rights but also retain some of the existing group-rights properties that sustain country's fragile stability. Put differently, the paper is interested in the possibility of the establishment of citizenship that will go beyond the nation-state in a particularly difficult context of post-Dayton Bosnia and Herzegovina.

In order to bring this issue to the light, the paper will examine the historical conceptualization of Bosnian citizenship and outline its main determinants, position the discourse within the parameters of relevant literature and discuss all the specificities of Bosnia and Herzegovina, in terms of social, cultural and political dimensions of the citizenship phenomenon. Throughout the paper, the distinction between the nominal and substantial dimension of citizenship will be maintained and made explicit through various examples. However, the final analysis, conclusions and questions will refer to a broader meaning of citizenship and include both dimensions, placing them in the highly sensitive and identity-saturated context. In this sense, the useful distinction made by Christian Joppke between status, rights and identity dimensions of citizenship will play out in a different mode, in which identity takes precedence over status and rights and determines the final outcome (2007: 37-48).

Additionally, bearing in mind the complexity of the Bosnian case, the paper will try to keep an eye on both the internal and external dimensions of the citizenship phenomenon. Clearly, there are many internal determinants of Bosnian citizenship, from the country's complex history, consequences of the recent war, local political interests to ethnic nationalism generated by the existing actors in Bosnian society. However, external reasons also drive development in terms of citizenship in Bosnia and Herzegovina, from regional to global politics: 'Europeanisation' of the country is just one of these influences. Both domains intertwine to create a particularly complex situation, but, as the paper aims to show, they also conflict with one another and significantly affect the democratization perspectives.

Finally, the research methodology for this paper follows a relational, contextualized (and to some degree ethnographic) approach, outlined by many authors concerned over similar issues, such as Kim L. Scheppelle (2004), Margaret Somers (1993; 1995), Eric J. Mitnick (2004), Ireneus P. Karolewski (2010) and others. Besides consulting relevant literature, the paper also relies on fieldwork, interviews

and discussions on citizenship with various stakeholders, analysts and social scientists, both in Bosnia and Herzegovina and beyond.

2. The Conceptualization of Bosnian Citizenship

2.1 Citizenship and History: The Benchmarks of Bosnian Statehood

There are several historical benchmarks which determine the evolution of the citizenship framework and the development of modern statehood in Bosnia and Herzegovina. They refer to the Ottoman period of Bosnian history and the effects of its millet system, Bosnian citizenship under Habsburg rule, Bosnia and Herzegovina's membership of the socialist federal Yugoslavia, as well as to the establishment of the independent Bosnian state and the ensuing war of the 1990s. All of them had bestowed a particular meaning upon Bosnian citizenship and have helped to frame the dominant patterns of its understanding, embodied finally in the Dayton citizenship and its presumptions of Bosnia's statehood.

The first distinctively modern definition of citizenship in Bosnia and Herzegovina developed during the late Ottoman period, when a first legal definition of belonging had been imposed through targeted legislation, primarily the Nationality Law of 1869 and other similar edicts. Together with other reform efforts that had aimed to modernize the dissolving empire and to introduce westernized concepts of the equality of the citizenry, the document aimed at creating a single political identity of all Ottoman subjects – the Ottoman citizenship (Imamović 2006). The efforts had gone against strong separatist currents in most of European countries under the Ottoman rule, where distinct national identities had been already developed and put to force that will end the Ottoman rule in Europe. The preceding Ottoman practice of social and legal categorization based on religious identities of its subjects – the so called millet system – was largely to blame for the failure of the Ottoman citizenship project, but there was also fierce opposition from the local Muslim rulers and landowners who felt they were losing their hitherto dominant social position. This was also the case with Bosnia and Herzegovina, which already had a religiously mixed population and dominant Muslim landowner elite (Karčić 1999, 46). The Ottoman response to such opposition was to avoid direct conflict and gradually to incorporate some of the old practices into the centralization efforts. One of such practices was the “legacy of the millet system, which recognized rights of communities, unlike the notion of citizenship that is based on individual rights” (Köksal 2008, 1503). In that way, the Ottoman citizenship project, though aimed to lessen the ethnic differences between its subjects and to increase the loyalty to the Empire through establishment of a common nationality, resulted in the reinforcement of the very millet distinctions it sought to diminish. The rights of culturally and religiously defined communities remained the dominant political rule

that had determined the administrative and normative framework, both on the local and the state level. The legal relation between the state and the individual remained tied strongly to the communities to which the individuals belonged. This fact will have profound consequences on the development of citizenship in later parts of the Bosnian history and thus represents the first historical benchmark that frames the subsequent evolution of citizenship in Bosnia and Herzegovina.

Pursuant to the decision of the European powers at the Berlin Congress in 1878, the Austrian-Hungarian Empire occupied Bosnia and Herzegovina and established its own legal regime. In legal terms, the Austrian-Hungarian period of Bosnian history had two parts. The first part encompassed the period between the military occupation in 1878 and the formal annexation of the country in 1908. During these thirty years, under the terms of the Treaty of Berlin (art. 25), the Dual Monarchy had the right to occupy and administer Bosnia and Herzegovina, while the Ottoman Sultan retained sovereign rights over the province. The second part was determined by the Habsburg decision to annex the country and impose its own legal order that lasted until the end of the Empire in 1918. Only after 1908 were Bosnians formally subjected to the rule of the Habsburg Empire. Between 1878 and 1908 they continued to be considered as subjects of the Ottoman Sultan.

There were two important characteristics of Habsburg legal rule in Bosnia and Herzegovina. First, Austria-Hungary retained some parts of the Ottoman legal and administrative setup, from the administrative organisation, legal order, and tax system to agrarian relations. These norms were altered and improved gradually, but the basic social structure remained organisationally tied to Bosnia's communal and religious order (Imamović 2004: 200). This setup influenced the political status of Bosnian citizens, whose limited participation in the political life of the country was determined by their ethnic and religious belonging. The second important characteristic was the specific position of Bosnia and Herzegovina within the Dual Empire, as a *corpus separatum* administered by the common Ministry of Finance, and consequentially a complex situation with regard to citizenship. The Austrian-Hungarian Monarchy had no common citizenship. There had been two separate citizenship laws, defined by the Austrian Civil Code of 1811 and the Law on Hungarian Citizenship from 1879, pertaining to the lands under Austrian and Hungarian rule respectively. Since Bosnia and Herzegovina was administered as a separate territory, none of these citizenship laws was applied there. Thus, the inhabitants of Bosnia and Herzegovina were neither Austrian nor Hungarian citizens. Instead, they had the legal status of 'members of the land of Bosnia and Herzegovina' (Imamović 2004: 242). This status was further defined with the proclamation of the Land Statute (Constitution) in 1910 that introduced universal civic equality and regulated a uniform citizenship of Bosnia and Herzegovina as a distinct administrative entity (*territorium separatum*) within the Habsburg Empire. Framed as such, the Habsburg citizenship was to have significant consequences for

the subsequent development of both Bosnian citizenship and the country's modern statehood in the 20th century.

After the First World War and the disappearance of the Dual Monarchy, Bosnia and Herzegovina became a part of the State and later the Kingdom of Serbs, Croat and Slovenes, which was superseded by the Kingdom of Yugoslavia. Royal Yugoslavian rule and the Citizenship Law of 1928 established a single Yugoslavian citizenship for the whole territory of the Kingdom, therefore also defining the status of Bosnians within the South Slavic state. The separate Bosnian citizenship, including the territorial and political subjectivity of Bosnia and Herzegovina ceased to exist and this situation lasted until the proclamation of Bosnian republic within 'new Yugoslavia', in the midst of the Second World War, by the resistance forces led by the Communist Party of Yugoslavia.

It was in the first stages of the socialist period that the first full, republican citizenship in Bosnia and Herzegovina was created, reflecting the country's historical and political subjectivity already framed by the Habsburg Empire. However, this citizenship had a distinct character and was integrated into a wider political system that rested on federal (and later confederative) relations between the Yugoslav federal units and the centre. The most salient characteristic of the citizenship regime established and maintained during the Socialist Yugoslavia was its bifurcated nature, with federal and republican citizenships existing simultaneously (see Medvedović 1998). This meant Bosnian citizens had a republican (Bosnian) and a federal (Yugoslav) citizenship at the same time. Their relation had been determined by the constitutions and by the federal and republican citizenship laws enacted over a period of roughly thirty years, from 1945 to 1977.

Socialist Yugoslavia had gone through a number of constitutional phases that reflected the ideological and geopolitical shifts the ruling Communist Party pushed forward, but also determined the political nature of the country and its constituent parts – the republics (Kardelj 1980: 385-403; Jović 2003). However, the role of the constitutional development of Yugoslavia can be also seen through the prism of political identities developed in direct relation with the structural evolution of the country and the position of particular republics within it, including Bosnia and Herzegovina. Namely, throughout the entire political history of Socialist Yugoslavia, there has been a certain trade off between federal and republican levels of power that became discernible through the pattern of Yugoslav constitutional changes. In a strict ideological sense, the unity at the level of political ideas was beyond question, at least in the first thirty years of the Yugoslav federation and the respective federal constitutions reflected this fact. But, as the revolution and uprising against a foreign enemy during World War Two were understood not only in terms of class, but also, predominantly, as ethnic and national liberation, the concept of nationality, understood as ethnic belonging, and the nation-state as such never ceased to

influence the internal politics of Yugoslavia. This was clearly reflected in the relationship between the federation and its constituent republics, established and changed with the evolution of Yugoslavia's constitutional law. If the initial founding documents had retained a considerably ambiguous terminology and avoided explicit nation-state labels to describe both the federation and constituent republics, holding onto more vague terms of "people", the later constitutional development cleared the ambiguity and established a more confederate relation between the federation and the republics as nation-states of their respective ethnic majorities (Ibrahimagić and Kurtčehajić 2002: 48-53). This was especially evident with the Constitution of 1974 and its definition of the state as a community of "united peoples and their socialist republics" (emphasis added).

The only exception to the obvious nation-state rule that shaped Yugoslavia's constituent units was Bosnia and Herzegovina, a republic without a titular nation (see Anđelić, 2005: 38; Štiks 2006). The ethnic origin of Bosnian citizens was mixed and consisted of three main groups, the Bosnian Muslims (later to be referred as Bosniaks), Croats and Serbs, with many minorities, including Jews, Roma, Hungarians and others. The fact of exception to the rule had facilitated the creation of a particular, but weak, republican identity amongst Bosnians. However, no overarching and strong civic identification was created, mainly because of the distinctive federal setting and the existence of two national homeland republics adjacent to Bosnia and Herzegovina which in turn considered Bosnian Serbs and Croats as elements of their ethnic stock. Muslims, who subsequently developed into the largest single ethnic group in Bosnia (a significant number of ethnic Muslims lived also in Montenegro and Serbia), gained the official recognition as one of the Yugoslav titular nations (*narodi*) only during the 1960s, after which they continued to share the republic with its other inhabitants.

The lack of the strong civic and republican identification with Bosnia and Herzegovina was generated by several things. Besides the diversity of groups that had already developed into fully-fledged nations (with corresponding national homelands, in Serb and Croat case), the nature of the political system that discouraged citizen participation in politics also contributed. The public affairs in the republic followed a distinct mix of communist and consociational modes, in which the party elite – very often organized along a communitarian pattern – dominated the political domain (see more in Anđelić 2005: 38, 62; also in Vlaisavljević 2006). However, discouraged by the nature of the system and the sociocultural complexity, some of the republican spirit and identification has managed to develop (especially during the late eighties, when a nascent civil society began to emerge) and transpose into new era of Bosnian independence from the rump Yugoslav federation. Although there are insufficient data to confirm the existence of such identity, tentative conclusions can be drawn from the position of the Bosnian political elite within the Federation and its political status that had reinforced the sense of Bosnian political

subjectivity top-down (Anđelić, 2005: 47-58). The republican visions have been broadly confirmed by the results of the referendum for Bosnia's independence in March 1992 when more than 65% of those entitled to vote did in fact cast a vote, with more than 90% of those voting opting for Bosnia's separation from what was, by then, a rump Yugoslavia, though this hardly indicates the existence of strong civic identification amongst Bosnians. However, the majority of Bosnians who decided to vote for the country's independence was not deemed a sufficient reason for a peaceful resolution of the political crisis, and the war broke out when the Serb forces (who refused the results of the referendum), led by the nationalist Serb Democratic Party and supported by the remaining Yugoslav Army, launched a full-blown attack on the country.

The newly independent and besieged Republic of Bosnia and Herzegovina introduced one of the most liberal citizenship regimes in the region (Muhibić 1998). While other former Yugoslav republics, such as Slovenia and Croatia, created rather ethnocentric laws aimed at moulding ethnically their citizenry and at creating more homogeneous nation states (see Medved 2009; Ragazzi and Štiks 2009), the Bosnian authorities followed some of the principles of the "new state" citizenship model and enacted an inclusive legislation that opened the door to Bosnian citizenship for all previous Bosnian citizens, but also for all permanent residents from other Yugoslav republics (on the new state model, see Brubaker 1992, 279). The background to this practice was the notion of legal continuity with the Bosnia's republican citizenship within the Yugoslav federation (Muminović 1998), but also, as some would claim, a strategic exigency in terms of military conscription, desperately needed in a besieged and militarily inferior state (see UNHCR 1997). However republican in character it might be, the new political system had in fact taken over some of the features of previous social systems pertaining to the informal consociational arrangements that were crafted to represent different communities, including a collective presidency and a government consisting of communal representatives. No efforts were made to construe a civic Bosnian nation and to mould different ethnic communities into a new supra-ethnic group, though legislative fundamentals for this option were established. Instead, nascent Bosnian post-Yugoslav republicanism was defeated by a mix of explicit ethnic separatism on behalf of the Serb (and partially Croat) groups and the efforts by the leadership of Bosnian Muslims (renamed in 1993 Bosniak instead of Muslim) to claim Bosnia and Herzegovina as an exclusive homeland for their ethnic group. The interplay between three ethnonationalisms aiming to advance their particular interests eventually destroyed any basis for civic republicanism and led the communities deeper into conflict that was to be ended only by the American diplomatic intervention and the final resolution reached through a peace treaty drafted in Dayton, Ohio and signed in Paris in late 1995.

These historical benchmarks – the legacy of the Ottoman community-bound millet system, separate citizenship under the Habsburg rule, the socialist

republicanism and the post-independence fragmentation of the country – constitute the main parameters that can assist the understanding of the citizenship phenomenon in Bosnia and Herzegovina. These benchmarks indicate the trajectory of the country's political development and its historical oscillation between subjugation to stronger powers and reaffirmation of its distinct political subjectivity. However, one of the major causes of the poor record in civic activism and the corresponding rights-based citizenship in Bosnia was the country's historical attachment to elite politics and the lack of civic organizations independent of specific political projects or parties. Notions of belonging, duties and rights, as cornerstones of the relationship between individuals and the state, have become detached from one another in the crucial phases of the country's history. In addition, complex relations with empires and neighbouring states prevented the evolution and development of a distinct Bosnian citizenship that would be rooted in individual loyalty to the state and the state's responsibility for individual rights and entitlements. Popular participation in politics has also been discouraged throughout much of the modern Bosnian history, when politics was an exclusive domain of political elites and no substantial and active civil society existed. This was the case not only with the socialist period and the one-party system, but also with the subsequent transitional period. The post-communist ethnic party elites and "ethnic entrepreneurs" (Brubaker 2004) have adopted the communist model of rule in trying to confine the public affairs to exclusive party responsibility. Thus, the active dimension of citizenship could not develop in a context of competing ethnic parties and policies limited to the achievement of exclusive group rights and agendas.

All of these elements have been fed into understandings of the citizenship regime created after the Dayton Agreement was signed. The Dayton citizenship model replaced not only the republican citizenship created by Bosnian governments, but also the separatist citizenship model enacted in the internationally unrecognized Republika Srpska. Whereas the republican citizenship model was inclusive and liberal, the model proclaimed by the Serb rebel government in 1993 was one of the most ethnocentric citizenship regimes in the region, resembling Croatia's 1991 Citizenship Law in its ethnocentric and exclusive requirements (UNHCR 1997: 30). Trying to accommodate competing ethnic claims, the Dayton citizenship model comes up with new solutions and introduces a bifurcated citizenship, with the state and entity citizenships that reflect the country's administrative division into two entities, the Federation of Bosnia and Herzegovina (dominated by Bosniaks and Croats) and the Republika Srpska (dominated by Serbs). The only exception to this rule exists in Brčko District, a region detached from direct entity rule after international mediation, where residents can choose their entity citizenship and eventually produce less ethnocentric political outcomes.

Comparable to the situation of socialist Yugoslavia and its federal and republican citizenships, the Dayton citizenship regime further fragments Bosnia's

civic domain and raises similar issues concerning the “primary” or “derivative” nature of sub-state citizenships and the subsequent emphasis on the sovereignty of the state or its administrative units (Muminović 1998: 84; Sarajlić 2010a).

2.2 Citizenship Concepts and Discourses in Bosnia and Herzegovina

The character of the Dayton citizenship model is not easy to determine, mainly because of its complexity, the plurality of conceptual and historical reference points and the existing citizenship discourses in the country. The transformational distinction Christian Joppke created in order to circumvent the proliferation of “hyphenated citizenships”, which included status, rights and identity as the three most important aspects of citizenship, might prove useful to explain this complexity and point to areas where Bosnia and Herzegovina and the liberal citizenship model differ and converge (Joppke 2007: 38).

In terms of citizens’ status and the framing legal provisions of the citizenship regime, one can say the current citizenship regime is fairly inclusive and liberal (see Howard 2006: 446 on parameters). The state-level Citizenship Law basically provides a mixture of *ius sanguinis* and *ius soli* requirements and frames the sub-state, entity legislation in a similar fashion. It has mild requirements for naturalization, reasonable residency requirements and endorses dual citizenship, provided that there is a bilateral agreement between Bosnia and Herzegovina and the foreign country on that matter. The mixture of *ius sanguinis* and *ius soli* provisions within Bosnia’s current citizenship regime reflects several things. First, the legislation itself was prepared and imposed upon Bosnian authorities by the international community, via its local proxy, the Office of the High Representative (OHR). The drafters of the legislation, obviously, intended to produce an outcome that will correspond with the contemporary citizenship developments in Europe, where a mixture of *ius sanguinis* and *ius soli* principles came to predominate in recent years (Joppke 2003). Secondly, this also reflects the fact that Bosnia and Herzegovina represents both a continental descent-based European polity and a “new state”, in Rogers Brubaker’s terms, in which the citizen body has been determined in terms of descent, place of birth and residence at particular points in time.

Two levels of citizenship legislation indicate that Bosnia and Herzegovina is a federal polity with bifurcated or two-tiered citizenship. Although the state-level Citizenship Law provided a basis for the legislative framing of sub-state citizenships, indicating the primacy of state over entity citizenships, there are also indications pointing in the opposite direction, reproducing the old debate about the nature of the Yugoslav bifurcated citizenship in the new, Bosnian context. In that sense, the character of Bosnia’s sub-state units is somewhat ambiguous and open to various interpretations. However, the literature on citizenship in federal systems indicates

that what determines the character and the level of the federal units' independence from the centre is their pre-federation status as well as the "nature of the political crisis" that impelled them to federate (Schuck 2000: 198). The "pre-federation" status of Bosnia's entities was the one of war (1992 - 1995) and a severe humanitarian, social and political crisis brought to an end by international pressure that provided the framework for the establishment of the new Bosnian state whose nature was the product of peace negotiations in Dayton, Ohio. One of its entities, the Republika Srpska captured militarily more than half of the entire country and opted for a separation from Bosnia and Herzegovina and a unification with what was then a rump Yugoslavia (but essentially Serbia) while the other part of the country under the control of the government forces tried to represent the entire country and maintain a basic unity of the state.

What post-Dayton Bosnia inherited from its wartime period was a completely incommensurable and divergent interpretation of not only the causes of the war but also of the new framework under which the state was brought together again. This incommensurability in perceptions and understanding extends also to citizenship and contributes to the existence of a constellation of citizenship discourses in the country. These discourses primarily converge with the current ethnic cleavages, with different citizenship conceptions espoused by different ethnic political elites. The Bosniak political elite tries to put forward a republican vision of citizenship, emphasizing the continuity of the Dayton-based Bosnia and Herzegovina with its republican predecessor and earlier embodiments of Bosnian historical and political subjectivity. Although the discourse is heavily imbued with a particular ethnic quality, it appears to be promoting certain republican values, such as a civic Bosnian identity, a commitment to community and common good as well as respect for state symbols (on republican citizenship conceptions see Abowitz and Harnish 2006: 657). The dynamic between ethnic and civic in the case of the Bosniaks reflects a particular uncertainty about visions of the country and the group's position within the state. The civic republican emphasis is mostly advanced by those aiming to construe a Bosnian nation, consisting of several ethnic or religious groups, although many of them have implicit supremacist attitudes, implicitly positing Bosniaks as the core ethnic group of the country. The more exclusive ethnic agenda is favoured by some who are concerned about the preservation of the Bosniak ethnic distinctiveness, defined by Islamic traditions, amid more powerful Croat and Serb regional powers. Only a minority within Bosniak political elite, mostly ideologically on the left, has civic and republican visions without the inherent ethnic supremacy aims.

On the other hand, the Croat citizenship discourse follows a distinct consociational line in trying to balance between membership in the wider Croat nation, supported by the official policy of Croatia that considers Bosnian Croats as its Diaspora, and the legal, historical and cultural belonging to Bosnia and Herzegovina (Kasapović 2005). Since the majority of Bosnia's 500,000 Croats have both Bosnian

and Croatian citizenship, this balancing is very often complex and, at times, detrimental to Croat social and political status in the country, since they are constantly being marginalized by the other two larger ethnic groups. However, this marginalization is in many cases self-imposed. This is mainly because citizenship of Bosnia and Herzegovina is seen as merely a matter of legal belonging that does not necessarily have any distinct identity or cultural dimension for Croats in Bosnia and Herzegovina. The Croat political elite pushes forward a certain pan-ethnic vision of belonging to the wider Croat nation within which social and political rights should be enjoyed. This is further maintained by the official policy of Croatian state which not only allows Bosnian Croats to vote in the Croatian parliamentary and presidential elections – although the right that has been somewhat restricted only recently, in June 2010 – but also allocates financial resources for their various social, educational and cultural benefits. In a sense, the Bosnian Croats exist in a dual citizenship body, trying to balance between their actual belonging to Bosnia and Herzegovina, with all the social, cultural and political rights, and the emotions and visions of a wider, substantial and kin-based national community.

Although there is a certain similarity between the Serb and Croat citizenship discourses in Bosnia and Herzegovina, mainly due to the existence of the neighbouring “national homelands” (Brubaker, 1996) which frame their wider belonging, the Serb political elite has a rather different political strategy. The legal existence of a separate entity citizenship of Republika Srpska provides a basis for this strategy, in which this entity is perceived as providing a substantial citizenship framework, whereas the one of Bosnia and Herzegovina is a mere and geo-strategic exigency with no historical or political meaning and relevance. The fact that this entity has retained the republican prefix, while the Bosnian state lost it in the course of Dayton negotiations, contributes significantly to it and provides a sense of continuity between the wartime aims of the Serb leaders and the Dayton-legitimized Republika Srpska. The Serb political elite also sees the group as a part of a wider national community, organized around the national homeland, Serbia. However, the conception of citizenship is a bit more fragmented than in the Croat case. The sense of belonging to the Republika Srpska, from which social and political rights are derived, is distinct and strong. The Serbian state, unlike Croatia, did not provide Serbian citizenships to Bosnian Serbs en masse, although the new Serbian citizenship law opens up a legal possibility for a larger incorporation of the “Serbs from the region” into Serbia’s citizenry (see Rava 2010: 14). The Serb self-perception in Bosnia and Herzegovina exists along more federal lines, in which the Republika Srpska is seen both as a federal unit within Bosnia and Herzegovina, but also as one of the several Serb “states” in the Balkans (in the Serb nationalist imagination, with the other two being Serbia and Montenegro). This is further aided by the provisions of the Dayton agreement enabling Bosnia’s constitutive entities to establish state-like agreements with the neighbouring states, Serbia and Croatia. Unlike the Federation

of Bosnia and Herzegovina, the Republika Srpska has a tight and well maintained relationship with Serbia in many areas of social life.

However influential and omnipresent they may be, the ethnic discourses on citizenship in Bosnia and Herzegovina are not the only ones competing for the right to define the Bosnian political community in legal and political terms. Although small and hardly influential, there is a liberal citizenship discourse in the country, mainly associated with some groups of civil society and maintained by (politically) weak academic production. It tries to construct in conceptual terms a vision of Bosnian citizenship created through political participation and civic activism, circumventing the elite-dominated parliamentarism and introducing more direct democratic measures (for more details see Mujkić 2007; Stojanović 2009).

The divergent pattern of perceiving and understanding citizenship in Bosnia and Herzegovina is, obviously, influenced by a differentiated historical experience and competing political visions in the country. All of the three predominant ethnic discourses build upon different historical benchmarks, drawing support for their claims from various concepts put in force at different points in the country's history. This produces a specific situation that prevents establishment of a consensus on what citizenship should mean and how it should function in Bosnia and Herzegovina. So, although there is a modern citizenship legislation developed and put in force, an overarching unifying vision of Bosnian citizenship is missing and it is not very likely that one will come to the fore in the near future.

This situation also fosters difficulties with the analytic conceptualization of the country's citizenship regime, in the broad sense. The highly divergent and incommensurable relation between the existing legislation and the political visions of citizenship does not make it possible to create a unified scientific conceptual definition that can grasp the full extent and complexities of the citizenship regime in Bosnia. There are republican aspects at various levels and the corresponding political sentiments; there are also ethnic and organic visions of community and citizenship that transcend state boundaries and link themselves to wider kin-based communities; but, at the same time, there are also liberal and participative citizenship visions detached from strict ethnic agendas. Most of these concepts and discourses correspond to some of the wider citizenship models present in democratic polities of the west (see Safran 1997: 313-335; Abowitz and Harnish 2006). However, unlike some of the ideal type or predominant citizenship concepts applicable to particular countries, a unified and consensual model for describing Bosnian citizenship does not exist in social science. It is still in the process of making and, as such, it is dependent on the course of the political processes in the country. At this particular moment, one might define it as a form of consociational citizenship, a particular type that reflects the communitarian setting with which the Bosnian constitution is framed, but also its complex and multileveled citizenship regime, based on ethnic

identity and semi-autonomous sub-state units. Finally, the most salient characteristic of the majority of embodiments and visions of Bosnian citizenship is the identity dimension: this dominates above all the Bosnian political domain and determines not only individual belonging but also patterns of political participation. This dimension of Bosnian citizenship thus deserves particular attention.

3. Ethnicity, Politics and Citizenship

3.1 Citizenship and Identity in Bosnian Context

Since its earliest conception, the identity dimension has played an important, if not decisive role in the theory and practice of citizenship. In tandem with the rise of the identity politics and the evolution of various integration processes, the issue has become even more salient in recent years (Karolewski 2010). As many authors noted, this has brought to the fore “an age-old tension at the heart of the concept of citizenship: the tension arises from the actuality of a plurality of social identities and the singular identity implied by citizenship, that is, between the particularism of the former and universalist aspirations of the latter” (Purvis and Hunt 1999, 458). The historical and conceptual convergence of citizenship and nationality further contributes to this tension and, in cases and contexts where these two followed separate trajectories, produces significant conceptualization problems.

Nowhere has this tension been more explicit and constitutive for citizenship debates than in contemporary Bosnia and Herzegovina. The identity dimension of citizenship is considered to be more relevant than the status or rights bestowed by citizenship in this country. Unlike the “story of successive causation” which Joppke espouses in his analysis of citizenship transformation, it is the identity dimension that drives change and influences other two dimensions in understanding and using citizenship in Bosnia (Joppke 2007, 46). Only through membership in a particular ethnic group can Bosnian citizens enjoy the full spectrum of various rights and entitlements granted to them by legal citizenship. This is mainly because the transitional character of Bosnian post-war society, in which the state authority has been considerably weakened and almost superseded by other means of social bonding, has shaped citizens’ expectations from the state and directed them to seek other sources of rights, protection and identity.

Of course, in some respects the retreat of the state and the introduction of other (both broader and narrower) forms of normative interactions reflect a global trend, but this had a particular local quality in terms of the rejection of state-imposed identities associated in some parts of Eurasia with the socialist past. More specifically, the socialist regime of the former Yugoslavia, although it negotiated identity issues and permitted a certain degree of bottom-up identification, had

imposed some elements of identification and created consequences that will be felt for decades after its demise. One of the elements which proved significant for Bosnia and Herzegovina was the fact that the country had been one of the constituent republics of the Yugoslav federation, on a par with the others. Although it was, as already noted, an exception in terms of the nation-state properties which the other republics exhibited, this particular setup had provided some grounds for the creation of a political identity for all Bosnian citizens, regardless of their ethnic affiliation (Anđelić 2005: 197-8). However, a particular feature of this civic-republican identity was the fact that it was dependent on the communist political elite in the Bosnian socialist republic, rather than on an authentic identification, although it enjoyed substantial levels of support, especially among the urban population and the educated members of Bosnian society. It was, in a sense, a type of reactive and diminished citizenship, shaped by the political elite and its visions of the state (see Anđelić 2005: 59, 153). Moreover, since the nation-building processes in the case of Croats and Serbs have already been underway, significantly aided by adjacent republics, the strongest identification with the new Bosnian state and its republican tradition within Yugoslavia, took place within the Bosniak ethnic group, but also within the small group of citizens with 'mixed' ethnic identity. In the context of Yugoslavia's dissolution, which followed the logic of narrowly defined nation-states, a civic, non-ethnically defined community of Bosnian citizens had very few chances of survival. What followed during the course of the war was almost a complete political, social and cultural detachment of Croats and Serbs from the state of Bosnia and Herzegovina, justified by the arguments that the projection of a Bosnian political or civic identity was a mere remnant of socialist political engineering, but not a substantive basis for identification (see Kasapović 2005 and Kecmanović 2007 for some arguments). This rejection also opposed creation of a civic identity that would, by western historical standards of majority rule, favour Bosniaks, who were numerically the most dominant group and already perceived themselves as the Bosnian core ethnic group (see Slack and Doyon 2001; Hammel 1993 for demography arguments; Kasapović 2005 and Kecmanović 2007 for Bosniaks).

On this historical basis it is easy to see how identity problems and other difficulties have marred the conceptualisation of Bosnian citizenship. The universalist tendency of citizenship in the Bosnian case stands in tension with the ethnic identities and groups that dominate the country's social sphere. Two of three main groups oppose it on the basis that they perceive it to be artificial and hegemonic, while only one of them fully embraces it, but also sees in it the chance to establish itself as the dominant group and to confirm itself, by 'owning' the state, as a full-fledged nation. Recent empirical research confirms such conclusions. According to one of such research reports, a relative majority of Bosnian citizens favour their ethnic, instead of civic identification (UNDP 2007a: 19-20). The most significant levels of identification with the state of Bosnia and Herzegovina are ascribed to Bosniaks (more than 60% considers as their primary identity the one of Bosnian citizens),

while the Serbs and Croats have significantly lower levels of primary identification with the state (less than 15% and less than 25% respectively).

Even active citizenship, as one of the elements that can create a sense of identification between individuals and groups as agents of civil society, is acutely weak and underdeveloped in Bosnia and Herzegovina, where only 18% percent of citizens are members of a civil society association, while only 10% describe themselves as active in the civic domain . Consequently, the levels of trust and social capital in the Bosnian society are very low, which significantly affects the possibilities for establishment of a civic identification that will be based on common citizens' action and involvement in the public sphere.

The vacuum of citizens' involvement in politics and society on liberal and democratic basis is filled with forms of ethnic sentiment and identification which shape the way citizenship as such is perceived and understood. Thus, the ethnic content of citizenship in Bosnia and Herzegovina is one of the few defining features of this country's citizenship model. This affects not only the active and identity dimensions of citizenship, but also its normative aspects, showing amply on the example of Bosnia and Herzegovina how the "changing sociocultural realities" brought up by transition can limit and determine the "strictly legal-formal notions of citizenship" (Hermes and Dahlgren 2006: 259).

3.2 Ethnocentric Citizenship

The ethnocentric nature of Bosnian citizenship visions and concepts, besides the legacy of war and transition, is primarily caused by the constitutional framework outlined in the Dayton Peace Agreement. Some authors have already recognized the ethnicity-citizenship nexus that is not a mere "byproduct of legal institutions that unintentionally reinforce organic ethnic division", but "the product of a legal and constitutional order that has built that division into its structure" (Mansfield 2003, 2064). This nexus is manifested in two dominant and mutually reinforcing ways, the political and the civic.

First, the ethno-territorial divisions have been entrenched in the country's legislation. In a strict communitarian fashion, the three dominant ethnic groups in Bosnia share power and determine the outlook of the state and entity institutions. On the entity levels, Croats and Bosniaks dominate in the Federation of Bosnia and Herzegovina, while Serbs dominate in the Republika Srpska. The state level is shared between the three, with ethnic quotas determined for both Houses of the Parliament, the State Presidency as well as the government ministries and other state institutions. The ethnic policies have largely been based on party politics and elite dominance over political domain. Since the demise of socialism at the beginning of the 1990s, the parties with explicit ethno-national agendas have been ruling the country, relying on

the electorate concerned and supportive of exclusive nationalist causes. The parliamentary system of Bosnia and Herzegovina, although dominated by ethnic interests and exclusive towards particular groups of citizens, is still considered procedurally democratic, with regular elections, freedom of speech and association in place. However, since it is based on the territorial autonomy and sovereignty of ethnic groups instead of people as a whole, it is repressive towards minorities and exclusive towards ethnic non-members residing in particular parts of the country (Balasz 2008). In analytic terms, it could be said that the Bosnian social and political system, at various administrative levels, exhibits some traits of ethnic democracy, a diminished democratic model with complex political administration that limits the overall democratic outcome in the country (see Smootha 2001; 2002; Perry 2005, 209-241). The dominance of the political elite over the public domain in the country significantly undermines the efforts to develop a democratic civil society and enable a higher citizens' participation in politics.

Correspondingly, citizenship, as a link between the individuals and the state, is largely understood through the prism of ethnicity (Guzina 2007: 227). The overall participation of citizens in the political life of the country is circumscribed by ethnic identities and allegiances. Even the voting system discourages (and in some cases prevents) individuals from transcending ethnic boundaries and electing members of other ethnic groups as their representatives. This is particularly the case with the three-member Presidency and the House of the Peoples of the State Parliament, which are directly elected by their ethnic constituency.

The communitarian emphasis on the importance of ethnic groups also prevents certain groups of individuals from enjoying the full spectrum of their civil rights in certain parts of the country. Primarily, this pertains to the constitutional setup of the country that excludes certain individuals on the basis of their ethnic identity, if their ethnicity is different of the ethnic majority in their places of residence. The scale of this exclusion was significantly high before 2000, since the entities' constitutions contained a provision that defined them as exclusive dominions of their ethnic majorities. The Republika Srpska was constitutionally defined as a state of the Serb people and the Federation as a state of Bosniaks and Croats. The Constitutional Court of Bosnia and Herzegovina eventually changed this with a judgment handed down in 2000. It concluded that provisions of the entity constitutions, which gave special rights to respective ethnic majorities, were not in accordance with the state constitution that stipulates equal constitutional status of all three ethnic groups on the entire territory of Bosnia and Herzegovina. The Court's decision, regardless of certain controversies it provoked in defying the ethnic exclusion logic of the country's consociational setup, significantly altered the legal ground providing for civic participation in politics and a more democratic environment (Mansfield 2003). However, it did not substantially change the ethnocentric structure of the general legal and political system that continued to

favour ethnic groups over individuals in the entitlements of civic rights. Moreover, by limiting political rights to members of three dominant groups, it has been argued that even this decision contributed to the exclusion of minority ethnic groups (individuals not belonging to one of the three constituent peoples the number of which amounts to 10% of the population), such as Jews, Roma and other, who are denied certain political rights on the basis of such legal provisions.

In strict normative terms, citizenship legislation is devoid of ethnocentric provisions, thanks to international involvement in its drafting which in turn bolsters its legitimacy. However, some of the elements indicating the understanding and usage of the citizenship as a “tool of ethnic engineering” (Štikš 2010) remained in parts of the total citizenship legislation. Namely, this pertains to some of the provisions in the entity citizenship law of Republic of Srpska which encourage ethnic homogenization and create an open space for immigration and settlement of Serb refugees from neighbouring Croatia, spurring further Bosniak and Croat resentment and political conflicts in the country (Imeri et al 2006: 63).

Besides the internal constraints, in terms of legal provisions and party policies, the ethnocentric nature of the overall citizenship situation in Bosnia and Herzegovina has also been determined by the regional context. Perceiving Croats and Serbs in Bosnia as a part of their national body, Serbia and especially Croatia have been playing an important role in ethnicizing Bosnia’s citizenship debates, through ethnocentric provisions of their citizenship laws that target Bosnian citizens of Croat or Serb origin. Although Serbia has only recently started employing such a policy, Croatia has a continued practice of incorporating Bosnian Croats into its political system. This provides tangible benefits not only because it gives access to travel on a passport subject to fewer visa requirements, at least in Europe, but also various benefits and employment prospects (see Ragazzi and Štikš 2009: 345 on Croatian citizenship law). However, the number of Croatian citizens in Bosnia amounts to 800,000. In other words, many members of other ethnic groups in Bosnia acquired Croatian citizenship as well. The debates over further consolidation of dual citizenship cases in Bosnia and Herzegovina are ongoing, due to various political issues and controversies arising, from voting influence to population politics, highly important in precarious ethnopolitical contexts. The parties are fighting over the reform of particular provisions of the Bosnian law on citizenship that, in cases where no bilateral agreements with other countries exist, imply the loss of Bosnian citizenship.

4. Human Rights and Citizenship

4.1 Differentiated Citizenship and Social Exclusion in Bosnia

Given its ethnocentric nature in total, the Bosnian citizenship regime generates a lot of human rights issues and violations. However, many of these violations are of a secondary and indirect nature, visible only at the practical and everyday level, while the citizenship legislation exhibits democratic and inclusive traits. Most of the exclusion is based on ethnicity, but also on gender, age and class (UNDP 2007b: 31-45; UNDP 2009). The reasons behind this situation are to be found in the particular way in which the entire social and political system is both internationally and locally legitimated.

Thus the legitimacy of the Bosnian Dayton regime is based upon communitarian notions of the primacy of groups over individuals and of selectively applied differentiated citizenship values and concepts. Drawing on the idea that citizenship expressing general will “has tended to enforce a homogeneity of citizens”, the Bosnian political system rests on institutionalized differences and political rights allocated to the main social groups in the country (Young 2003, 220; see also Bieber 2004 and Sarajlić 2010b on Bosnia). However, the degree to which the differentiated approach has been institutionalized stops at the boundaries of the three most dominant ethnic groups, leaving others exposed to majoritarianism and exclusion. Deep seated inequalities and minority exclusion thus represent the true “moral cost of differentiated citizenship policy” in Bosnia and Herzegovina (Mitnick 2004: 174). Hence, one may assume the differentiated citizenship policy, as is applied and institutionalized in Bosnia and Herzegovina, is one of the main causes of the majority of human rights violations and democratic defects.

The system that favours group instead of individual rights in Bosnia is not particularly concerned with violations that go beyond group interests and politicized issues in the public sphere. Any exclusion that is based on an individual’s gender, age or minority identity is virtually invisible in Bosnia and Herzegovina. The rights discourse is saturated with ethnicity-driven values and agendas of the main ethnic groups, so the issues of human rights violations of Bosnian citizens of Roma and Jewish origin, female gender, elderly, disabled or queer identity are seldom brought to the fore and publicly discussed. The paradox of Bosnian differentiated citizenship policy is that it does not soften the homogenizing thrust of universal citizenship through the promotion and institutionalization of plurality of identities and associated human rights but enforces a tripartite hegemony of dominant ethnicities and excludes everyone else who do not fit the ruling ethno-political mould. The empirical data show astounding levels of social exclusion in the country, with more than 50% of individuals feeling excluded on a number of bases, 22% facing extreme exclusion, while more than 47% of them being at risk of long-term exclusion (UNDP

2007b: 9). The position of the unrecognized minorities that do not correspond with the dominant views and values is best reflected through the position of the queer minority in the country. The recent occasion of the Queer Fest in Sarajevo has shown the nature of the majority response to minority (non-ethnic) cultures: violence and blunt opposition to any participation in the public domain. The group-based rights are limited and reserved only to particular groups, those with political power and representation, while the rights others face a systematic neglect.

Of course, one of the main reasons for a long-term existence and sustainability of such a system is its stability dimension. As many authors have noted, offering their critique of Bosnia's Dayton-based political system, there is a significant trade-off between stability and human rights issues in Bosnia and Herzegovina, in which the former overshadows the latter, disabling the overall democratic development of the country (see Balasz 2008: 105; also Hitchner 2005; Haverić 2006; Mujkić 2007 and Šarčević 2008). As long as arguments of stability prevail over those of individual human rights, Bosnian political system will remain exclusive and substantially undemocratic.

4.2 Between Politics and Human Rights: the Naturalisation Case

Besides being influenced by ethnic agendas and regional nationalising policies, the Bosnian citizenship regime has been also driven by the short-term political interests and tactics of various political parties, which for a consequence very often had the violation of human rights. This has been particularly salient when it comes to the issues of naturalisations of individuals participating in the warring armies between 1992 and 1995. The most problematic part of these naturalisations pertains to the individuals from Islamic countries of Africa and the Middle East who arrived in Bosnia and Herzegovina to join one of the sides in the Bosnian conflict, the Army of Bosnia and Herzegovina. Their naturalisations were made possible by the liberal provisions of the Law on Citizenship of the Republic of Bosnia and Herzegovina (art. 2, see Sarajlić 2010a: 21-23) that enabled members of the Bosnian Armed Forces to acquire citizenship. It is estimated that around two thousand individuals benefited from this preferential treatment, although no clear statistical indication has yet been offered.

This issue has become a particularly significant yet very sensitive one after the 11 September 2001 terrorist attacks in the United States. Following US pressure to tackle the problem of the former Islamic fighters who were suspected of using Bosnia and Herzegovina as a base for terrorist operations in the West, the Bosnian authorities responded with arrests, detentions and deportations of some of these individuals who remained in the country after the war. The most notorious case concerned the so-called 'Algerian Group'. Six men were arrested and handed over to

the US authorities who transferred them to Guantanamo prison in January 2002 under suspicion of involvement in terrorist activities and a planned attack on the US and UK embassies in Bosnia and Herzegovina. In five individual cases from this group, citizenship was revoked immediately after their deportation to Guantanamo. Apparently, two of these persons have been able to regain the citizenship of Bosnia and Herzegovina, following their release from prison in 2008. The US authorities failed to prove their involvement in any form of terrorist activities. Their imprisonment was not based on sufficient evidence and their case resulted in the first Guantanamo release under a court order. It followed a ruling from the US Supreme Court that detainees were entitled to a court review of their cases. Given the global context and the local political sensitivity, the issue had wide media attention and clearly influenced debates and issues around Bosnian citizenship.

The entire case acquired a human rights dimension, because the attempts of the Bosnian governments to rectify mistakes made through over-inclusive naturalisation policies in the past have caused new human rights violations. The Helsinki Committee for Human Rights in Bosnia and Herzegovina, which included other international organisations, such as European Parliament and the Council of Europe, was particularly concerned with the government actions on the revocations of citizenship and extradition of individuals suspected of terrorist activities, especially the 'Algerian Group'. The Helsinki Committee considered the extradition of the six men from this group to the US a violation of the main international conventions on human rights and citizenship.

Both the granting of citizenship to these individuals and groups and their revocations in many cases related to particular political and party interests rather than to the human rights of the individuals involved. Wartime naturalisations reflected the priorities of the ruling elite in Sarajevo that aimed to increase the number of people under arms but also show a symbolic solidarity with Islamic countries and groups, trying to win over more sympathy and potential military assistance. After the war ended, the pressure from the United States and other western governments forced the new generation of politicians to rectify the mistakes of their predecessors and win their support by making moves that will, once again, aid their mutual interests instead of promoting and protecting human rights.

5. Europeanisation of Citizenship in Bosnia and Herzegovina

5.1 Europeanisation and its Legal Effects

Following the introductory line on two main dimensions of citizenship analyzed in this paper – legal and democratic – this chapter aims to discuss the effects of the EU on citizenship questions and to suggest some of the main arguments which are

central to understanding the entire issue this paper deals with. The impact of the international community and in particular of the European Union on citizenship in Bosnia and Herzegovina has been crucial. This influence has been the most visible and straightforward in its normative, legal dimension. Since the Bosnian political parties have had a problem on reaching consensus over the key state issues since the dawn of the war, the role of the international and EU representatives has been vital in bringing the legislation necessary for the country's political functioning.

The wartime citizenship laws, both of the Republic of Bosnia and Herzegovina and of the Republic of Srpska were influenced by political priorities and ethnocentrism, respectively. The international community made sure the first post-war citizenship diverged from these principles. Two years after facilitating negotiations in Dayton, the international community's High Representative in Bosnia and Herzegovina imposed the Law on Citizenship of Bosnia and Herzegovina (17 December 1997) which was subsequently adopted (with identical wording) by the Parliament of Bosnia and Herzegovina. In addition to imposing the law, the High Representative has also imposed several subsequent amendments to this law as well as to entity laws on citizenship (in 2002 and 2009) and influenced other decision-making processes by extending deadlines and providing various legal frameworks, such as those pertaining to dual citizenships and signing bilateral agreements with other states. Some of the subsequent amendments additionally altered the citizenship structure in the country and provided the freedom for Brčko District residents to choose their own entity citizenship, since the district is a self-governing body under direct Bosnian sovereignty that officially belongs to both entities. This exception adds to the overall complexity of the Bosnian citizenship situation but also provides an alternative to the ethno-territorial rule dominant in other parts of the country.

Clearly, without the strict international supervision and imposition of citizenship legislation, the situation might have been much worse and more complicated. The involvement of the Office of the High Representative (now in transition towards becoming the European Union Special Representative for Bosnia and Herzegovina, EUSR) in citizenship matters enabled reflection of the main democratic principles in citizenship legislation and provided clear guidance on the distribution of competencies and responsibilities regarding legal citizenship. However, the OHR/EUSR representatives are not the only ones exerting direct influence onto Bosnian legal sphere. There are several judges and prosecutors in office at a number of highest judicial instances in the country, overseeing its legislative development.

Besides direct influence exercised through EU and other international representatives in Bosnia, the norms of the EU regarding citizenship, such as the European Convention on Nationality is also reflected in the Bosnian citizenship legislation, providing even more space for the EU effect on Bosnia and Herzegovina

(Dautbašić 2003). Other European institutions are also of crucial importance for the structural outlook of the Bosnian state and its institutions. The Council of Europe's Venice Commission has put forward several suggestions to the decision makers in Bosnia and Herzegovina in terms of constitutional detachment from the ethnicity-based political representation. The Commission has especially emphasized the incompatibility of particular constitutional provisions and the electoral law with the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. Namely, the Preamble of the Constitution of Bosnia and Herzegovina makes a categorical distinction between the 'constituent peoples' (the main ethnic groups, Bosniaks, Croats and Serbs) and the 'Others' – individuals and groups not identifying themselves with any of the dominant ethnic communities. In accordance with the constitutional provisions and the current electoral law, the key state institutions, such as the House of Peoples of the Bosnian parliament or the Presidency are composed exclusively of members of dominant groups. Individuals of Jewish, Roma or any other origins, or simply individuals that do not want to state their ethnicity, are disenfranchised to elect their group representatives in the country's political institutions.

On receiving written confirmation from the Central Election Commission that he was ineligible to run for election because of his Jewish origin, Jakob Finci, a Bosnian citizen, together with Dervo Sejdić, a fellow citizen of Roma origin, filed a suit against Bosnia and Herzegovina at the European Court of Human Rights. In December 2009, the Court decided that the constitutional ineligibility of these individuals to run for office lacks an objective and reasonable justification and therefore breaches art. 14 (prohibition of discrimination), art. 3, protocol 1 (right to free elections) and art. 1, protocol 12 (general prohibition of discrimination) of the European Convention on Human Rights.

Clearly, this decision and other international suggestions to change the Bosnian constitutional framework in order to give preference to civic (individual) instead of ethnic (group) rights will place additional pressure on decision makers in Bosnia and Herzegovina to comply with international human rights standards and to amend problematic legislation. This may affect the citizenship debate as well and provide some ground for a substantial redefinition of relations between the Bosnian state and its citizens. In case some amendments to ethnocentric legal provisions are made, the understanding of citizenship in general in this country may also start to change.

5.2 Citizenship, State and European Visions of Bosnia and Herzegovina

However, an even more important dimension of the European Union's influence on contemporary Bosnia and on Bosnian citizenship is its impact on the ways the country's transformation on the path to the EU membership is perceived and

normatively framed. At this point in time, there seem to be two dominant patterns through which Bosnian problems are seen and interpreted, both by the local political subjects and their European partners. One of them sees the challenge and priority of integrating the Bosnian society and state into a more or less centralized system that can be sufficiently functional in order to secure the country's integration into the EU, while the other one opposes centralization efforts and implicitly encourages local political forces to reach consensus through further ethnic consolidation.

Although both of them reflect the historical experience of continental Europe, they clash and create conceptual and political tensions that make the democratization process even more difficult. The key problem here is the historical experience itself: the genealogy of Bosnia's political development is seen through the prism of the European nation-state experience and of the two models that have dominated the European history of nation and state building – the civic republican model and the ethnocultural model. This type of historical perception frames most of the reform efforts and, accordingly, affects the ways in which citizenship is understood. The majority of local ethno-political players prefer the ethnocultural model and see citizenship as intrinsically tied to the ethnic core of nation-state majorities. As noted earlier, even most of those local players who opt for more republican visions of state in Bosnia have implicit ethnic supremacy aims, or at least have problems in detaching the civic republicanism from strong identity assumptions.

On the other side, the experience of the existing member states of the EU and the normative framework for mutation of member state to European citizenship requires civic or liberal republican features: individual human rights and integration into a broader, European republic (see Kochenov 2010; also Delanty 2007: 67). The main problem with this is that they very often imply the prior existence of the nation-state as a starting point for “de-ethnicized” integration into a larger, liberal framework (see Joppke 2003: 437 for this argument). This type of approach is clearly discernible not only at the legislative level imposed by the international and EU representatives in Bosnia, where a partial accommodation of ethnic claims in the form of entity citizenships gives way to a liberal state conception of citizenship, but also at the level of daily and reform politics and negotiations. However, this approach is hardly consistent, but open to changes depending on the level of action and the subjects involved, sending incoherent messages across the board: requiring functional centralization based on individual human rights on normative, while respecting the consociational and group-based disintegrative features of the Bosnian state on the political side of the reform process. Thus the normative and political aspects of the Europeanisation of Bosnia and Herzegovina diverge from each in significant ways, leaving space for differing interpretations and obstructions of the democratization efforts. The key problem here is the impossibility to conceive a vision of Bosnian state that will go beyond the historical experience of European nation-states, with mutually excluding and clashing citizenship alternatives

(Benhabib 2005). The ethnocentric model of citizenship, obviously, is not capable of delivering a sufficient level of human rights respect and social inclusion. The establishment of the republican citizenship model is close to impossible, given the nature of Bosnian political cleavages and conflicts, but also certain hegemonic dimensions of the republican citizenship as well, which would definitely aid only one of the Bosnian groups and tend to marginalize the others.

In that sense, the question of citizenship in Bosnia and Herzegovina in the context of EU integration is one of the most contested issues this country might ever face. Part of the problem lies in the fact that, unlike majority of EU member states that have developed their citizenship models under the form of nation-state before joining the Union, Bosnian citizenship is still in the process of making, without clear indications in which direction it might go. The other part is directly related to the EU and its ways of shaping the future of Bosnia and Herzegovina. The existing regional context, in which Bosnia and Herzegovina appears to be an exception in terms of the poor delivery of reform efforts and a slow EU integration process, might leave it excluded on the longer run. The Schengen visa liberalization offered to the neighbouring countries in the Balkans in late 2009 (but not to Bosnia, Kosovo and Albania) is already having such an effect, especially on Bosniaks, majority of whom do not possess dual citizenships (unlike most of Croats and a significant number of Serbs) raising doubts that this has an identity dimension aimed to leave the Muslims outside EU.

However, even a favourable scenario in which Bosnia and Herzegovina would enter EU relatively soon may have significant, yet not necessarily beneficial effects on its state citizenship. Namely, the prospect of European citizenship which tend to gradually diminish the relevance of Member State citizenship and, in perspective, allocate more authority to the Union but also to local levels of governance might eventually circumvent the relevance of state citizenship in Bosnia and Herzegovina while reinforcing the one of the entities. This might find a particular resonance given the regional policy of extending Croatian and Serbian citizenship to Bosnian citizens of Croat and Serb origin and these groups' reluctance to identify with the Bosnian state. However, the road to EU citizenship is only possible via member state citizenship, so frictions and further complications are also possible (on relation between EU and national citizenship see Shaw 2010: 6). In case the entity and neighbouring countries' citizenships gain more relevance in the course of Bosnia's EU integration, the need for the state level of governance might gradually dissipate, providing a leeway for the regional kin-based policies to shape the situation in Bosnia and Herzegovina even more and rendering the existence of Bosnian state superfluous. Needless to say, this might produce further frictions and tensions, not only in Bosnia and Herzegovina but in the region as well.

6. Conclusion

Obviously, the process of 'Europeanisation' of Bosnia and Herzegovina and its citizenship is far from straightforward one (on 'Europeanisation' see Shaw and Štiks 2010: 4-5). Had it been just a question of technical adjustment of various aspects of Bosnia's society and politics, the country would have been already well on the road to joining the EU. But, the case of citizenship amply shows how much difficult is to discuss, let alone transform and sustain a democratic system in Bosnia and Herzegovina that will ensure the respect of human rights, rectify the mistakes from the past and enable a long-term social and political cohesion and sustainability.

One of the crucial conclusions this paper tried to produce is basically that the current analytical and political categories on citizenship with which we operate are hardly helpful for the task of grasping the problems with citizenship in Bosnia and Herzegovina, let alone capable of generating viable solutions. The main reason for that is the inability to transcend the historical context citizenship has been developed in, and to come up with new ways of understanding and conceiving citizenship. This is not only a matter of practitioners affecting Bosnia's legal or political transformation but also of analysts and social scientists trying to produce a generic knowledge on citizenship that will be applied in different contexts. As if for nothing else, the citizenship situation in Bosnia and Herzegovina is useful in helping us realize that every citizenship context is unique and comes with a plethora of elements that cannot be easily translated into preconceived forms or categories, be them analytical or political. Every context needs to be understood in its own right, only to be compared and analyzed contextually and reflectively.

The same could be said in respect of the policy dimensions of citizenship, with solutions and proposals for Bosnian transformation and democratization offered by different European players. More political and social centralization with efforts at building a unified citizenship model will produce opposition from those in Bosnia who perceive it as a threat to their identities and political interest. Likewise, further fragmentation of citizenship and its incorporation in broader (regional) frameworks will generate unrest by those unwilling to succumb to cross-border ethnicity based homeland projects. The point is that if Bosnia and Herzegovina follows any of the European experience state-building models, conflicts and controversies will continue to arise and no viable solution will be possible. Europeanisation of the country is thus a double-edged sword, an ambiguous process with no clear outcome, as beneficial as it is detrimental for establishment of a liberal and democratic system.

Therefore, the main lesson of the Bosnian problems with citizenship is that none of the existing citizenship models are suitable for mollifying country's political problems and for curing many of its democracy ailments. Both analysts and policy makers will have to come to terms with the fact that a new or profoundly reformed

citizenship model is needed if human rights and political stability alike are to be established in this region in the long run. This citizenship model will have to be based on the respect of human rights and entail no identity implications that might affect its rights-based foundation. This can be achieved not only through promotion of human rights as the main concern of state and its institutions (such is citizenship) but through a concerted regional approach that will foster the construction of an active, responsible and vibrant civil society that will be sustained independently of the state and provide meaning to various citizens' practices. In terms of citizenship, the role of the Bosnian state and its central and mid-level institutions will have to be limited to the provision and protection of social and political rights, leaving domains of culture and civility to the society's self-regulation mechanisms. Similar developments will need to take place in neighbouring countries as well. Only in a democratic and rights-based context, Bosnian civil society and citizenship will have a chance to develop democratic and liberal forms beyond state hegemony and nationalistic agendas.

The role of the European Union in realizing such a scenario will be to support Bosnia's rights-based institutions and provide a framework for an authentic development of Bosnia's citizenship, free of preconceived forms of nation and state building. Being an exception in European terms, as a country that defies continental patterns of political organization, Bosnia and Herzegovina can be a litmus test for a new type of polity, a state in which a republican or ethnonational hegemony will be replaced with regionally integrated civil society and institutions focused on protection of human rights of all its citizens. We have to realize that Bosnia and Herzegovina will probably never develop into a classic European republican polity, nor will it dissolve along ethnic lines into three miniature nation-states, because both the complex ethno-territorial internal setup and the external context do not allow any of these scenarios. Thus, the only viable alternative is to try to come up with other solutions which will aid both of the priorities of Bosnia's democratic transformation at nobody's expense: human rights and a long term political stability.

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